

Ministry of Long-Term Care

Long-Term Care Operations Division
Long-Term Care Inspections Branch

Hamilton District

119 King Street West, 11th Floor
Hamilton, ON, L8P 4Y7
Telephone: (800) 461-7137

Original Public Report

Report Issue Date: July 25, 2024

Inspection Number: 2024-1605-0002

Inspection Type:
Complaint

Licensee: The Regional Municipality of Niagara

Long Term Care Home and City: Northland Pointe, Port Colborne

INSPECTION SUMMARY

The inspection occurred offsite on the following dates: May 22, 24, 28-31, 2024, June 3, 4, 7, 10-12, 27, and July 4, 2024.

The following Complaint intake was inspected:

- Intake: #00116513 related to records required for employment.

The following **Inspection Protocols** were used during this inspection:

Safe and Secure Home

INSPECTION RESULTS

WRITTEN NOTIFICATION: TRAINING

NC #001 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: FLTCA, 2021, s. 82 (2) 3.

Training

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s. 82 (2) Every licensee shall ensure that no person mentioned in subsection (1) performs their responsibilities before receiving training in the areas mentioned below:

3. The long-term care home's policy to promote zero tolerance of abuse and neglect of residents.

The Fixing Long Term Care Act, 2021, (FLTCA) s. 2 states: "staff", in relation to a long-term care home, means persons who work at the home,

(a) as employees of the licensee,

(b) pursuant to a contract or agreement with the licensee, or

(c) pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")

The licensee failed to ensure that all agency staff at the home received training on the long-term care home's policy to promote zero tolerance of abuse and neglect of residents, before performing their responsibilities. Nine agency staff did not receive training related to the home's policy to promote zero tolerance of abuse and neglect of residents, before performing their responsibilities.

Sources: Staffing agency's staff records; Staff interviews.

WRITTEN NOTIFICATION: HIRING STAFF, ACCEPTING VOLUNTEERS

NC #002 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 246/22, s. 252 (2) (b)

Hiring staff, accepting volunteers

s. 252 (2) The police record check must be,

(b) conducted within six months before the staff member is hired or the volunteer is accepted by the licensee.

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The licensee failed to ensure that a police record check, which was a Vulnerable Sector Check (VSC), was conducted within six months before staff members were hired by the licensee. The VSCs for two agency staff were conducted more than six months prior to them working at the home.

Sources: Written agreement with the staffing agency, agency staff records, correspondences from a police agency; Staff interviews.

WRITTEN NOTIFICATION: STAFF RECORDS

NC #003 Written Notification pursuant to FLTCA, 2021, s. 154 (1) 1.

Non-compliance with: O. Reg. 246/22, s. 278 (1) 1.

Staff records

s. 278 (1) Subject to subsections (2) and (3), every licensee of a long-term care home shall ensure that a record is kept for each staff member of the home that includes at least the following with respect to the staff member:

1. The staff member's qualifications, previous employment and other relevant experience.

The licensee failed to ensure that a record was kept for each staff member of the home, that included the staff member's previous employment and other relevant experience. Twenty two agency staff records did not include any information about the agency staff's previous employment, and other relevant experiences.

Sources: Agency staff records; Staff interviews.

COMPLIANCE ORDER CO #001 INFECTION PREVENTION AND CONTROL PROGRAM

NC #004 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 102 (12) 4.

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Infection prevention and control program

s. 102 (12) The licensee shall ensure that the following immunization and screening measures are in place:

4. Staff is screened for tuberculosis and other infectious diseases in accordance with any standard or protocol issued by the Director under subsection (2).

The inspector is ordering the licensee to comply with a Compliance Order [FLTCA, 2021, s. 155 (1) (a)]:

The licensee shall:

A) Review and revise as necessary its process for ensuring all staff are appropriately screened for Tuberculosis (TB) at time of hire in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of O. Reg. 246/22.

B) Implement the reviewed/ revised process to ensure that all staff hired pursuant to a contract have completed a valid TB screening, in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of O. Reg. 246/22, before they perform their duties.

C) Complete an audit of all current staff hired pursuant to a contract to determine if they have a valid TB screening, in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of O. Reg. 246/22. Keep a record of the audit, date completed, who completed it, and the results. Ensure that any staff identified in the audit as not having a valid TB screening, in accordance with evidence-based practices and where there are none, in accordance with prevailing practices, consistent with s. 102 (12) 4 of O. Reg. 246/22, cease working in the home until a valid TB screening has

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been completed.

Grounds

According to the Infection Prevention and Control (IPAC) Standard, s. 11.2, the licensee was required to ensure that staff were screened for TB and other infectious diseases at time of hire in accordance with evidence-based practices and where there were none, in accordance with prevailing practices.

The FLTCA, s. 162 (1) 2 states: The authority to make an order or issue a notice under sections 155 to 161 against a licensee who has not complied with a requirement under this Act applies regardless of the following, and they shall not be considered in deciding whether to exercise the authority whether, at the time of the non-compliance, the licensee had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance.

The licensee failed to ensure that agency staff that were hired by the home pursuant to a contract were screened for TB in accordance with evidence-based practices. The TB screening documents for ten agency staff that worked in the home were falsified.

Sources: The home's policy, the written agreements with staffing agencies, agency staff records, correspondences from a medical clinic; Interviews with a medical clinic representative, and staff.

This order must be complied with by September 3, 2024

**COMPLIANCE ORDER CO #002 HIRING STAFF, ACCEPTING
VOLUNTEERS**

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NC #005 Compliance Order pursuant to FLTCA, 2021, s. 154 (1) 2.

Non-compliance with: O. Reg. 246/22, s. 252 (3)

Hiring staff, accepting volunteers

s. 252 (3) The police record check must be a vulnerable sector check referred to in paragraph 3 of subsection 8 (1) of the Police Record Checks Reform Act, 2015, and be conducted to determine the person's suitability to be a staff member or volunteer in a long-term care home and to protect residents from abuse and neglect.

The inspector is ordering the licensee to comply with a Compliance Order [FLTCA, 2021, s. 155 (1) (a)]:

The licensee shall:

A) Review and revise as necessary its process for ensuring that all staff have a valid Vulnerable Sector Check (VSC) that complies with the requirements of s. 252 of O. Reg. 246/22, taking into consideration the exceptions outlined in s. 254 of O. Reg. 246/22.

B) Implement the reviewed/ revised process to ensure that all staff hired pursuant to a contract have a valid VSC conducted by a police record check provider within the meaning of the Police Record Checks Reform Act, 2015, before they perform their duties.

C) Complete an audit of all current staff hired pursuant to a contract to determine if they have a valid VSC conducted by a police record check provider within the meaning of the Police Record Checks Reform Act, 2015, within six months before the staff member was hired, or that a VSC was provided to the licensee within three months after the staff member was hired. Keep a record of the audit, date

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completed, who completed it, and the results. Ensure that any staff identified in the audit as not having a valid VSC, cease working in the home until a valid VSC has been completed.

Grounds

The Fixing Long Term Care Act, 2021, s. 162 (1) 2 states: The authority to make an order or issue a notice under sections 155 to 161 against a licensee who has not complied with a requirement under this Act applies regardless of the following, and they shall not be considered in deciding whether to exercise the authority whether, at the time of the non-compliance, the licensee had an honest and reasonable belief in a set of facts that, if true, would have resulted in there not being any non-compliance.

The licensee failed to ensure that a police record check, which was a VSC, was conducted before hiring agency staff. The VSCs for ten agency staff that worked in the home, were invalid.

Sources: Written agreements with staffing agencies, agency staff records, correspondences from police agencies; Staff interviews.

This order must be complied with by September 3, 2024

REVIEW/APPEAL INFORMATION

TAKE NOTICE

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The Licensee has the right to request a review by the Director of this (these) Order(s) and/or this Notice of Administrative Penalty (AMP) in accordance with section 169 of the Fixing Long-Term Care Act, 2021 (Act). The licensee can request that the Director stay this (these) Order(s) pending the review. If a licensee requests a review of an AMP, the requirement to pay is stayed until the disposition of the review.

Note: Under the Act, a re-inspection fee is not subject to a review by the Director or an appeal to the Health Services Appeal and Review Board (HSARB). The request for review by the Director must be made in writing and be served on the Director within 28 days from the day the order or AMP was served on the licensee.

The written request for review must include:

- (a) the portions of the order or AMP in respect of which the review is requested;
- (b) any submissions that the licensee wishes the Director to consider; and
- (c) an address for service for the licensee.

The written request for review must be served personally, by registered mail, email or commercial courier upon:

Director

c/o Appeals Coordinator
Long-Term Care Inspections Branch
Ministry of Long-Term Care
438 University Avenue, 8th floor
Toronto, ON, M7A 1N3
e-mail: MLTC.AppealsCoordinator@ontario.ca

If service is made by:

- (a) registered mail, is deemed to be made on the fifth day after the day of mailing
- (b) email, is deemed to be made on the following day, if the document was served after 4 p.m.

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(c) commercial courier, is deemed to be made on the second business day after the commercial courier received the document

If the licensee is not served with a copy of the Director's decision within 28 days of receipt of the licensee's request for review, this(these) Order(s) is(are) and/or this AMP is deemed to be confirmed by the Director and, for the purposes of an appeal to HSARB, the Director is deemed to have served the licensee with a copy of that decision on the expiry of the 28-day period.

Pursuant to s. 170 of the Act, the licensee has the right to appeal any of the following to HSARB:

- (a) An order made by the Director under sections 155 to 159 of the Act.
- (b) An AMP issued by the Director under section 158 of the Act.
- (c) The Director's review decision, issued under section 169 of the Act, with respect to an inspector's compliance order (s. 155) or AMP (s. 158).

HSARB is an independent tribunal not connected with the Ministry. They are established by legislation to review matters concerning health care services. If the licensee decides to request an appeal, the licensee must give a written notice of appeal within 28 days from the day the licensee was served with a copy of the order, AMP or Director's decision that is being appealed from. The appeal notice must be given to both HSARB and the Director:

Health Services Appeal and Review Board

Attention Registrar
151 Bloor Street West, 9th Floor
Toronto, ON, M5S 1S4

Director

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c/o Appeals Coordinator
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e-mail: MLTC.AppealsCoordinator@ontario.ca

Upon receipt, the HSARB will acknowledge your notice of appeal and will provide instructions regarding the appeal and hearing process. A licensee may learn more about the HSARB on the website www.hsarb.on.ca.